

**RESOLUTION AGREEMENT**  
**Cochise Elementary School District**  
**Case Numbers 08-16-1271**

In order to resolve the issue raised in Case Number 08-16-1271, that the District failed to provide the Student with a free, appropriate public education when it failed to evaluate the Student for a suspected disability, filed against the Cochise Elementary School District (the District) and opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR), the District agrees to implement this Resolution Agreement. This case was initiated pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulation at 28 C.F.R. Part 35. The District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. The District's decision to enter into this Agreement is not an admission of liability or wrong-doing, nor will it be construed as such.

1. The District will draft for OCR's approval in-service training materials and identify one or more persons knowledgeable about Section 504 and Title II who will provide the training. The training will include, at a minimum:
  - a) A review of the District's responsibility to comply with Section 504 and Title II, which state that educational institutions under OCR's jurisdiction may not discriminate against any person on the basis of disability;
  - b) The prohibition against disability discrimination by public schools, including the District;
  - c) Discussion of the requirements of Section 504 and Title II, including, at a minimum:
    - i) The District's responsibility to individually evaluate any child who, because of disability, needs or is believed to need special education or related services;
    - ii) The requirements of 34 C.F.R. § 104.35, regarding evaluation procedures, evaluating data, and making placement decisions;
    - iii) The requirements of 34 C.F.R. § 104.36 regarding establishing and implementing a system of procedural safeguards that include notice and an opportunity for parents and guardians to examine relevant records;
  - d) The District's responsibilities in educating students with disabilities;
  - e) A review of the District's discipline policies and procedures, including the consequences or series of consequences for students with disabilities who have violated the District student code of conduct. The training will include discussion of the procedural requirements established at 34 C.F.R. § 104.35 and how they apply to disciplinary proceedings for students with disabilities that may result in a significant change in placement;

- f) Discussion of appropriate recording-keeping practices and procedures for students with disabilities; and
- g) Discussion of the fact that the District does not tolerate disability discrimination, that such conduct is prohibited by law, and that effective action, including disciplinary action where appropriate, will be taken.

**REPORTING REQUIREMENT:** Within ninety (90) calendar days of the date of this Agreement, the District will submit documentation to OCR demonstrating that it has fully complied with this paragraph. Such documentation will include:

- o The draft training materials for OCR's review and approval.
  - o Identification of the intended trainer(s) and information about the trainer's qualifications.
2. Within sixty (60) school days of the OCR's approval of the training materials, the District will provide training to all District teachers; administrators, including the Superintendent; school aides; and any other District personnel responsible for ensuring that students are not subjected to discrimination that is prohibited by Section 504 and Title II as discussed in Item 1, above.

**REPORTING REQUIREMENT:** Within ten (10) calendar days after the conclusion of the training, the District will submit to OCR proof that the training was provided. Such documentation will include:

- o The agenda and handouts for the training;
  - o The date and time the training was held; and
  - o A copy of the attendance sheet from the training, including the name and title of each participant, along with a written assurance from the District Superintendent that all required attendees were present during the training.
3. Within ten (10) calendar days of the date of this Agreement, the District will present the Complainant an offer to evaluate the Student for suspected disabilities. If the Complainant consents to the evaluation, the District will initiate the evaluation and placement process. The evaluation and placement process will be procedurally consistent with 34 C.F.R. §§ 104.35 and 104.36, including administering evaluative assessments specifically designed to determine disability, considering information from a variety of sources, convening a group of persons knowledgeable about the student (a multidisciplinary "Team"), evaluative data and placement options, and documenting and carefully considering the information presented. The District will ensure that any decisions made at this placement meeting reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will

include District employees who have knowledge of the matters being considered by the Team.

#### REPORTING REQUIREMENTS:

- Within thirty (30) calendar days of the offer for evaluation, the District will provide OCR a copy of this offer and the Complainant's response to this offer.
  - If the Complainant consents to the evaluation, within ten (10) calendar days of the meeting mentioned in paragraph 3, the District will submit documentation to OCR that includes the following:
    - A list of the individuals who attended the meeting (by name, title, and role in the meeting);
    - Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
    - A copy or summary of the information the Team considered in reaching its determination regarding whether the Student qualified as a student with a disability;
    - Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
    - Documentation that the Complainant was notified in writing of the team's determination; and
    - Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II of the ADA.
4. If the Team determines that the Student qualifies as an individual with a disability per the procedures discussed in Item 3, above, the Team will determine whether the Student is entitled to compensatory education due to having not received special education or related services during the 2015-16 school year. Specifically, the Team will consider what, if any, compensatory services, including educational, social, or emotional, are owed to the student as a result of the Student not receiving special education or related services during the 2015-2016 school year. Based on the Team's findings, the Team will determine the type and number of hours of compensatory services, if it determines that such services are necessary, to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student within six months. The District will promptly notify the parents in writing of the compensatory services being offered at no cost to the parents and the proposed, prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 36. The District will ensure that any decisions reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the

child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will include District employees who have knowledge of the matters being considered by the Team.

#### REPORTING REQUIREMENTS:

- Within thirty (30) calendar days of the meeting of a group of persons knowledgeable about the child, the District will submit documentation to OCR that includes the following:
    - A list of the individuals who attended the meeting (by name, title, and role in the meeting);
    - Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
    - A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
    - Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
    - Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;
    - A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
    - Documentation that the Complainant was notified in writing of the compensatory services offered by the District;
    - Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II of the ADA.
  - Within six (6) months of the meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined by the Team have been provided to the Student.
5. If the Team determines that the Student qualifies as an individual with a disability per the procedures discussed in Item 3, above, within ten (10) calendar days of that determination the District will convene a team of individuals to hold a manifestation determination meeting for the purpose of determining whether the Student's conduct that led to his suspension during the 2015-16 school year was caused by, or had a direct and substantial relationship to the Student's disability. The District will conduct the manifestation determination meeting in accordance with the procedural requirements of Section 504 and, if applicable, Individuals with Disabilities Education Act (IDEA) requirements.. If it is determined that the Student's behaviors were a manifestation of his disability, the District will offer the Student compensatory services for the suspension, pursuant to Item 6, below.

Within ten (10) calendar days of the manifestation determination meeting, the District will convene a team of persons knowledgeable about the student, evaluative data and placement options to determine whether the Student is entitled to compensatory services as a result of his suspension from school based on behaviors related to his disability, and develop a plan for providing those compensatory services to the Student. Specifically, the Team will consider what, if any, compensatory services, including educational, social, or emotional, are owed to the student as a result of the Student's suspension from school during the 2015-2016 school year. Based on the Team's findings, the Team will determine the type and number of hours of compensatory services, if it determines that such services are necessary, to make up for any missed educational services. The Team will then develop a plan for providing those compensatory services to the Student within six months. The District will promptly notify the parents in writing of the compensatory services being offered at no cost to the parents and the proposed prompt initiation date of such services. The Team meeting will be procedurally consistent with the requirements of 34 C.F.R. §§ 104.35 and 36. The District will ensure that any decisions reflect the judgment of the Team and not the judgment of a single individual. The District will ensure that the Student's parents are invited to the meeting and will permit the Student's parents to invite persons knowledgeable about the child to attend the meeting. The Team will carefully consider all information provided by the Student's parents and their invitees. The Team will include District employees who have knowledge of the matters being considered by the Team.

#### REPORTING REQUIREMENTS:

- Within thirty (30) calendar days of the meeting of a group of persons knowledgeable about the child, the District will submit documentation to OCR that includes the following:
  - A list of the individuals who attended the meeting (by name, title, and role in the meeting);
  - Documentation of the District's invitation to the parents to attend the meeting and obtain their input;
  - A copy or summary of the information the Team considered in reaching its determination regarding whether and what compensatory services are appropriate for the Student;
  - Notes from the meeting documenting that the Team carefully considered input from persons knowledgeable about the Student;
  - Documentation of the Team's decisions regarding the type and number of hours of compensatory services that are appropriate for the Student and the bases for those decisions;
  - A plan for the prompt provision of compensatory services to the Student at no cost to the parents;
  - Documentation that the Complainant was notified in writing of the compensatory services offered by the District;

- Documentation that the District provided the Complainant with notice of the Student's rights and applicable procedural safeguards under Section 504 and Title II of the ADA.
    - Within six (6) months of the meeting, the District will submit documentation to OCR demonstrating that all of the compensatory services determined by the Team have been provided to the Student.
- 6. If the Team determines that the conduct that resulted in the Student's suspension was a manifestation of his disability, by **October 31, 2016**, the District will confirm in writing to OCR that any information related to disciplinary incidents in which the Student was involved at the School during the 2015-2016 school year will not be used detrimentally against the Student, including using the information as a means of any progressive discipline against the Student.

**REPORTING REQUIREMENT:** By **October 31, 2016**, the District will provide an assurance that the Student's educational files were reviewed and will provide copies of information that was removed from the Student's files related to any disciplinary incidents in which the Student was involved at the school during the 2015-2016 school year.

- 7. If the Student re-enrolls in the District during the monitoring phase of this Agreement, the District will provide a written assurance to OCR and the parents that it has followed appropriate procedures to meet the Student's special education needs, pursuant to 34 C.F.R. §§ 104.33–36.

**REPORTING REQUIREMENT:** Within thirty (30) days of the Student's re-enrollment in the District, the District will provide the written assurance to the parents and OCR. If the Student does not re-enroll in the District during the monitoring phase of this Agreement, the District will submit a statement to this effect in its final monitoring report to OCR

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which were at issue in this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§100.9, 100.10), or judicial proceedings, including to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of the Agreement, if necessary, OCR may visit the District, interview District employees and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504

of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which were at issue in this case.

For Cochise Elementary School District:

“/s/”                      10/3/2016

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Name	Date
Title	